

CCRB INVESTIGATIVE RECOMMENDATION

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|---|---|---------------------------|---|---|---------------------------------|
| Investigator: Sheila Donovan | Team: Team # 7 | CCRB Case #: 200511215 | <input checked="" type="checkbox"/> Force | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Tuesday, 09/20/2005 11:25 PM | Location of Incident: in front of § 87(2)(b) | Precinct: 63 | 18 Mo. SOL 3/20/2007 | EO SOL 3/20/2007 | |
| Date/Time CV Reported Tue, 09/20/2005 11:28 AM | CV Reported At: IAB | How CV Reported: Phone | Date/Time Received at CCRB Wed, 09/21/2005 8:30 AM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
| | | |
| | | |
| | | |

| Witness(es) | Home Address |
|-------------|--------------|
| | |
| | |

| Subject Officer(s) | Shield | TaxID | Command |
|------------------------|--------|--------|---------|
| 1. POM James Murphy | 14857 | 926095 | 063 PCT |
| 2. POM Terrence Cane | 29622 | 922068 | 063 PCT |
| 3. POM Robert Martinez | 20291 | 922716 | 063 PCT |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|---------------------|-----------|--------|----------|
| 1. SGT Joseph Walas | 05351 | 894425 | 063 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|-----------------------|--|-----------------------------|
| A.POM Robert Martinez | Discourtesy: PO Robert Martinez spoke obscenely and rudely to § 87(2)(b) § 87(2)(b) | |
| B.POM Robert Martinez | Abuse: PO Robert Martinez refused to provide his name to § 87(2)(b) | |
| C.POM James Murphy | Abuse: PO James Murphy refused to provide his name to § 87(2)(b) | |
| D.POM Terrence Cane | Abuse: PO Terrence Cane refused to provide his name to § 87(2)(b) | |
| E.POM Terrence Cane | Discourtesy: PO Terrence Cane spoke obscenely and rudely to a § 87(2)(b) | |
| F.POM Robert Martinez | Abuse: PO Robert Martinez threatened to arrest § 87(2)(b) § 87(2)(b) | |
| G.POM Robert Martinez | Force: PO Robert Martinez used physical force against § 87(2)(b) and § 87(2)(b) § 87(2)(b) | |

Synopsis

§ 87(2)(b) § 87(2)(b) first reported her complaint to the IAB on September 20, 2005 and later to the CCRB via the call processing system on September 21, 2005. On September 20, 2005 at approximately 11:25PM, in the vicinity of § 87(2)(b) § 87(2)(b) in Brooklyn, PO Robert Martinez issued § 87(2)(b) summons to § 87(2)(b) brother § 87(2)(b) outside of their home. § 87(2)(b) claimed that when she asked PO Martinez why § 87(2)(b) was being summonsed he replied, "None of your fucking business" (Allegation A). She claimed that when she asked him his name he replied, "None of your fucking business" (Allegation B). She claimed that she asked two other officers, who were later identified from a photo array as PO Terrence Cane and PO James Murphy, for their names and they ignored her (Allegations C and D). § 87(2)(b) stated that her mother, § 87(2)(b) came out of the house and told PO Terrence Cane who she was, asking why her son had been stopped. § 87(2)(b) claimed that PO Cane told her that he "didn't give a fuck who she was" (Allegation E). According to § 87(2)(b) when PO Martinez issued the § 87(2)(b) summons to § 87(2)(b) she argued that he was not § 87(2)(b) and PO Martinez told her to "go into her fucking house" or she would be arrested (Allegation F). § 87(2)(b) also claimed that without provocation PO Martinez and the rest of the officers tackled § 87(2)(b) § 87(2)(b), § 87(2)(b) other brother, to the ground and arrested him for no reason (Allegation G). She stated that when she leaned down to look at him, PO Martinez pushed her with two hands to her chest (Allegation H).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) PO Martinez denied all of § 87(2)(b) claims except for the claim that he used force against § 87(2)(b) which he justified by claiming that § 87(2)(b) pushed him. § 87(2)(b), § 87(2)(g)

Summary of Complaint

During § 87(2)(b) § 87(2)(b) 911 call on September 20, 2005 at 11:35PM she alleged that five officers pushed her brother, § 87(2)(b) to the ground, dragged him, kicked him, stomped him and punched him (encl. 3). She also told IAB that an officer told her to "Get the fuck away" and when she tried to look at her brother, an officer pushed her. When § 87(2)(b) called the CCRB on September 21, 2005 at 8:30AM, and filed her complaint via the call processing system, § 87(2)(b) did not make any allegations relating to § 87(2)(b) At that time she reported that an officer used profanity and pushed her.

§ 87(2)(b) § 87(2)(b) was interviewed at the CCRB on October 5, 2005 (encl. 6A-6H). On September 20, 2005 at approximately 11:25PM, in front of § 87(2)(b) § 87(2)(b) in Brooklyn, § 87(2)(b) was reversing her car into the driveway. Her brother § 87(2)(b) had just gotten home from work and was stopped in the street, waiting to reverse his car into the driveway behind hers. A marked police van pulled up behind him with their lights and sirens on. The street is a one way, residential block. § 87(2)(b) pulled his car up closer to the parked car in front of him so that the officers could pass but the officers put on their high beams and all five officers came out of the van and approached § 87(2)(b) car. § 87(2)(b) drives a Nissan Maxima, his windows are not tinted and he had his window down. The five officers were described as white males. They had flashlights and were looking into the windows of the car. § 87(2)(b) came to the sidewalk and was watching from about 7 feet away. PO Robert Martinez, who was identified from a summons that was issued during this incident, asked for § 87(2)(b) license and registration. § 87(2)(b) provided his license and registration and asked why he was being pulled over. PO Martinez took his license and registration and went back to the police van while the other officers stayed in their positions. § 87(2)(b) went to the window of the police van and asked PO Martinez what her brother was stopped for. He said, "None of your fucking business, stay on the sidewalk." She told him that he was her little brother and that she wouldn't get any closer, she just wanted to know what he was stopped for. PO Martinez said, "Don't come near my fucking van." She asked him what precinct he was from and he said, "None of your fucking business." She asked him what his name was and he said, "None of your fucking business." § 87(2)(b) remained on the sidewalk and § 87(2)(b) was in his car.

§ 87(2)(b) § 87(2)(b) § 87(2)(b) brother, came out of the house at this time, stood on the sidewalk and asked § 87(2)(b) § 87(2)(b) what § 87(2)(b) had been stopped for. She told him that she did not know. § 87(2)(b) § 87(2)(b) asked two of the officers who were near the car for their names and they turned around without answering. The shorter officer was in his thirties, had on a gray shirt with stripes and was identified through a photo array as PO James Murphy. The taller officer had dark hair and a very young face and was identified through a photo array as PO Terrence Cane. The other officers were on the other side of the car. § 87(2)(b) asked PO Murphy what her brother was being stopped for and the officer stated that his car was not registered. § 87(2)(b) car was new but the temporary plates were valid until October 9, 2005. § 87(2)(b) told them this information from his car and said that he had given them all the appropriate paperwork. § 87(2)(b) mother came out of the house, told the officers that she was § 87(2)(b)'s mother, and also asked what was happening. PO Cane stated that he "Didn't give a fuck who she was." The officers told her that § 87(2)(b) didn't have insurance but she stated that she knew he did. The officers kept yelling at the § 87(2)(b) family to stay on the sidewalk and § 87(2)(b) continued to ask questions from the sidewalk. § 87(2)(b) asked a fourth, unidentified officer what he was being given a ticket for and the officer said that it did not matter and he could fight it in court.

PO Martinez came out of the van and gave § 87(2)(b) a ticket § 87(2)(b). § 87(2)(b) asked how he could be double parked when he was right outside his home. § 87(2)(b) stated that he was not double-parked. PO Martinez kept telling § 87(2)(b) to "shut up." § 87(2)(b) stated during her interview that she was not acting angry. § 87(2)(b) asked PO Martinez why he had given § 87(2)(b) a ticket. PO Martinez told her that he did not have a valid plate on the car because they were dealer's plates from out of state and to "Go into her fucking house or she would be arrested if she said anything else." She said, "There's nothing wrong with the plates." PO Martinez jumped out of his car and rushed towards her. By this time the neighbors were watching from their doorways because the officers were yelling.

§ 87(2)(b) said, "Hey, what are you all doing?" The officers turned their focus to him. One of the officers stuck their elbow into his back. They pushed him onto the ground and dragged him. § 87(2)(b) could not remember which officers were doing this. One of the officers put their knee into § 87(2)(b) back. All five officers were on top of § 87(2)(b) and he was not struggling. § 87(2)(b) came closer to see how he was. PO Martinez pushed § 87(2)(b) with two open hands to the area near her chest and shoulders. The other four officers pulled § 87(2)(b) up from the ground and pushed him onto the car. His upper body hit the car. When they did that, § 87(2)(b) ran into the house and called 911 to report the incident to the IAB. § 87(2)(b) had scratches on his arm but § 87(2)(b) was not aware of any other injuries. § 87(2)(b) was not injured. A woman who lives three houses down from § 87(2)(b) watched from her window and came out of her house to her stairs as § 87(2)(b) was being tackled to the ground. § 87(2)(b) did not know her name.

After the incident § 87(2)(b) went to the stationhouse to pick up her brother and asked PO Cain and PO Murphy for their names, which they provided. § 87(2)(b) was shown photos of the three officers she named in her complaint. She did not recognize PO Martinez from his photo. She picked out PO Cane as the tall officer whose name she wrote down at the stationhouse; according to NYPD records he is 6'3". She picked out PO Murphy as the short officer whose name she also wrote down, (he is 5'7" tall) the shortest of the officers who were at the incident. § 87(2)(b) added that one of the officers told her that § 87(2)(b) put his middle finger up at them before they stopped him.

Results of Investigation

Civilians not Interviewed

An anonymous female called 911 on September 20, 2005, at 11:27PM. During her call there is a lot of screaming in the background. She stated that her location was § 87(2)(b) between § 87(2)(b) § 87(2)(b). She stated, "It's battery from the cops. They are assaulting my neighbor and I am a witness. They pull over someone, his brother, and they push him to the ground and I witness that." The caller hung up before IAB could take her call. The number that was found on the Sprint for the anonymous caller was called but the subscriber did not accept incoming calls. § 87(2)(b) was unable to provide a name or exact address for the neighbor who witnessed the incident, most likely the 911 caller. Several attempts were made to schedule interviews with § 87(2)(b) family, § 87(2)(b), § 87(2)(b) and § 87(2)(b) who live in the same home. § 87(2)(b) family members never attempted to call

the CCRB and when tentative times were set up to visit their home in order to conduct interviews, § 87(2)(b) and § 87(2)(b) would cancel these dates claiming that they wanted to reschedule, though they never attempted to call the investigator back. The last scheduled interview was cancelled because of a transit strike in New York City and her family members did not attempt to reschedule, though a phone call was made to their home.

Officer Identification

PO Terrence Cane and PO James Murphy provided their names and badge numbers to § 87(2)(b) at the stationhouse, after the incident. PO Robert Martinez was identified from the § 87(2)(a) 160.50 summons that was issued to § 87(2)(b). According to the roll call, all three of these officers were assigned to anti-crime during their tour on February 17, 2006. Sgt. Joseph Walas was also assigned to anti-crime on this date.

PO Terrence Cane

PO Terrence Cane was interviewed at the CCRB on February 17, 2006 at 11:12PM (encl. 7A-7D). On September 20, 2005 PO Cane worked from 9:30PM to 2:00PM the next day. He was assigned to anti-crime with PO Robert Martinez, PO James Murphy, and Sgt. Joseph Wallace. They were dressed in plainclothes and drove a marked police van. PO Cane did not have any memo book entries regarding this incident.

On September 20, 2005 PO Cane was sitting in the rear passenger seat of the police van travelling on § 87(2)(b). PO Martinez was driving and Sgt. Wallace was in the front passenger seat. § 87(2)(b) is a one way street. Outside of § 87(2)(b) there was a double-parked vehicle on the left side of the street, which was preventing the police van from continuing down the street. PO Cane could not remember if there were any cars behind their van. PO Martinez briefly put the siren on. The driver of the double-parked vehicle threw his hand up in the car and did not move. PO Cane could not describe the vehicle. PO Martinez got out of the vehicle and went to the driver's side while PO Cane went to the back passenger side. PO Cane could not remember if any other officers were outside of the police vehicle. There was a driver § 87(2)(b) in the vehicle. PO Martinez asked the driver for his license and registration and he and PO Cane returned to the police van with the paperwork.

While PO Martinez was making out the summonses, a female (§ 87(2)(b) § 87(2)(b)) came to the window of the police van from the sidewalk. PO Cane came out of the van. PO Martinez told § 87(2)(b) to step away from the vehicle. § 87(2)(b) replied, "Why the fuck are you bothering us? Get the fuck out of here." According to PO Cane she continued to use "every obscenity in the world." PO Martinez told her to step back and eventually § 87(2)(b) complied. PO Martinez gave the summons to § 87(2)(b) and then returned to their vehicle. Another civilian showed up, a male who PO Cane gathered to be the driver's brother, § 87(2)(b). After PO Martinez and PO Cane got back to the police van, § 87(2)(b) § 87(2)(b) and § 87(2)(b) went up to the § 87(2)(b) driver's side window. PO Martinez yelled out the window, "You've got to move." § 87(2)(b) § 87(2)(b) yelled, "We'll move when we are ready." They waited for a moment and then PO Martinez and PO Cane again got out of their vehicle because they were blocked in. They approached the driver's side of the vehicle and § 87(2)(b) § 87(2)(b) ran down the sidewalk. § 87(2)(b) § 87(2)(b) shoved PO Martinez with one hand to his chest as he approached the driver's side of the vehicle. PO Martinez made physical contact with § 87(2)(b) but PO Cane could not describe the contact in detail because he was traveling from the passenger side of the police van to the driver's side of the civilian's car and his view was obstructed at the time. From his angle he could only see PO Martinez move towards him. As PO Martinez grabbed § 87(2)(b) there was garbage on the ground that he tripped over and both of them fell to the ground; it wasn't a hard fall, but a roll. PO Cane assisted PO Martinez in handcuffing § 87(2)(b) by putting one of his hands behind his back. PO Martinez took the other hand. PO Cane and PO Martinez did not make any other physical contact with § 87(2)(b).

§ 87(2)(b) family went to precinct where § 87(2)(b) was issued a summons and released from the precinct. There may have been other people that came out onto their porches during this incident but PO Cane did not know if anyone else was on the street. The only thing that PO Cane said to § 87(2)(b) § 87(2)(b) during this incident was "stay away from the van." She did not ask him for his name at the scene but at the stationhouse he gave his name when she asked for it. PO Cane could not remember if she asked other

officers for their names at the scene. She was screaming and cursing so much that PO Cane was not listening to her. PO Cane did not drag § 87(2)(b) and he did not see anyone drag him. PO Cane stated that it is possible that his knee went into § 87(2)(b) back when he was being handcuffed but he could not remember. He did not see PO Martinez put his knee into § 87(2)(b) back. § 87(2)(b) did not complain of any injuries and did not appear to be injured. PO Cane did not use the word “fuck” and he did not hear PO Martinez use the word “fuck.” PO Cane did not kick § 87(2)(b) and did not see PO Martinez kick § 87(2)(b). PO Cane did not make physical contact with § 87(2)(b) § 87(2)(b) and did not see any other officer make physical contact with her.

PO Robert Martinez

PO Robert Martinez was interviewed at the CCRB on March 23, 2006 (encl. 8A-8D). On September 20, 2005 PO Martinez worked from 9:30PM to 6:05AM and was assigned to anti-crime in a marked van with PO Terrence Cane, PO James Murphy and Sgt. Joseph Walas. In his memo book PO Martinez noted that he stopped one male and made one arrest in regard to the stop.

At 11:30PM on September 20, 2005 PO Martinez was driving down § 87(2)(b) in Brooklyn on routine patrol when he observed a double-parked vehicle. PO Martinez was unable to proceed down the street. He waited a few seconds for someone to move the car and honked his horn. § 87(2)(b) was speaking to § 87(2)(b) § 87(2)(b) and threw his hand up out the window in a dismissive gesture. PO Martinez waited a little bit longer and the driver did not move. PO Martinez got out of the van and went to § 87(2)(b) car, asked him for his license and went back to the van in order to write a § 87(2)(b) summons. § 87(2)(b) § 87(2)(b) came to the window of the van and was screaming and cursing. She was angry and irate. She and the § 87(2)(b) did not explain any legitimate reason why the car was stopped there. PO Martinez stated that he had never been cursed at so badly. He instructed § 87(2)(b) to step back onto the sidewalk a few times because she was screaming in his ear. When he finished writing the summons PO Martinez went to the car and gave the driver the summons and told him to move the car. PO Martinez returned to the van. § 87(2)(b) § 87(2)(b) screamed, “We’re not going to move this fucking car. Fuck you, you fucking bastard.” The driver did not move his car.

At this point § 87(2)(b) came outside and was standing by the driver’s side door. PO Martinez was going to give the driver another summons; a moving violation for impeding vehicular traffic. As PO Martinez approached the car, § 87(2)(b) put his hand out and pushed PO Martinez. PO Martinez pushed him away and attempted to grab him in order to place him under arrest. § 87(2)(b) stepped back and tripped over a bag of garbage. PO Martinez landed on top of him, turned him over, handcuffed him, picked him up, put him in the van and they went back to the stationhouse. § 87(2)(b) did not resist and no other officers assisted in handcuffing him. PO Martinez could not recall if any other civilians were watching or if § 87(2)(b) mother came out. PO Martinez could not recall if § 87(2)(b) asked PO Martinez or any of his partners for his name or precinct. PO Martinez was asked if there was anything that § 87(2)(b) could have been arrested for and he stated that she probably could have been arrested for disorderly conduct but PO Martinez claimed that he never threatened to arrest her. PO Martinez could not remember when the other officers came out of the van. At the stationhouse PO Martinez ran § 87(2)(b) name for warrants and issued him a summons § 87(2)(a) 160.50 PO Martinez claimed that he did not use profanity when talking to § 87(2)(b) PO Martinez was asked if he dragged, elbowed or kneed § 87(2)(b) at any time and he said, “No.”

Sgt. Walas

On September 20, 2005 Sgt. Joseph Walas worked from 8:30PM until 5:14AM (encl. 9A-9E). At 11:30PM he wrote in his memo book that a summons was issued to a male § 87(2)(b) § 87(2)(b) Sgt. Walas noted that the plate was a South Carolina dealer plate. PO Martinez arrested a male for § 87(2)(a) 160.50

§ 87(2)(g) He stated that PO Martinez had yelped the horn three times and that § 87(2)(b) was blocking the street. According to him, all four officers exited the police van. PO Martinez got § 87(2)(b) license and registration. At least two civilians appeared on the scene, a black female (§ 87(2)(b) § 87(2)(b) and a black male § 87(2)(b) § 87(2)(b) was saying, “Why are you doing this? You shouldn’t be doing this.” Sgt. Walas could not

remember exactly what she was saying but § 87(2)(b) was yelling and upset. Sgt. Walas could not remember if he or the other officers addressed § 87(2)(b) at all.

All four officers went back to their police van to write the summonses and run § 87(2)(b) license. § 87(2)(b) was still saying things but Sgt. Walas could not remember how his officers were responding. She was on the sidewalk by the double-parked car. The officers then returned to § 87(2)(b) vehicle to issue the summons to § 87(2)(b). Sgt. Walas went to the front passenger side of the vehicle. PO Martinez went to the front driver's side. § 87(2)(b) and § 87(2)(b) who were on the sidewalk, were told to back away from the vehicle but Sgt. Walas could not remember who gave them that instruction. § 87(2)(b) was very loud, boisterous, and argumentative. She was backing away and then getting closer. Sgt. Walas headed back to the van once the summonses were issued but heard a commotion and turned around to find PO Martinez on the sidewalk standing over § 87(2)(b) who was already on the ground. Sgt. Walas did not know how he got onto the ground. Sgt. Walas helped to get him up off the ground with PO Martinez. PO Martinez handcuffed him because he was being arrested § 87(2)(a) 160.50. When asked whose decision it was to arrest this individual Sgt. Walas stated, "That was ultimately mine but it was PO Martinez who decided he was going to be arrested § 87(2)(a) 160.50." When asked if PO Martinez explained to him why he wanted to make the arrest, Sgt. Walas stated, "No, I don't remember." When asked why he decided to authorize the arrest, Sgt. Walas said, "Because he felt like he was being threatened. I did not actually see it." When asked what was threatening about this situation Sgt. Walas said, "I wasn't personally threatened. Whether PO Martinez interpreted a threat, that is up to him and that is his decision." Sgt. Walas could not remember if the female asked for names or badge numbers from the other officers but she did not ask Sgt. Walas for his. Sgt. Walas could not remember PO Martinez using any profanity. Sgt. Walas could not remember PO Martinez's demeanor. Sgt. Walas claimed that he did not see PO Martinez use physical force against § 87(2)(b) and claimed that he could not remember if PO Martinez used physical force against § 87(2)(b) § 87(2)(b). Sgt. Walas could not remember if any of the other officers made physical contact with § 87(2)(b) or § 87(2)(b) § 87(2)(b).

PO James Murphy

PO James Murphy was interviewed at the CCRB on March 26, 2006 (encl. 10A-10C). On September 20, 2005 PO Murphy worked from 11:30PM to 6:05AM and was assigned to "crime" with PO Robert Martinez, PO Terrence Cane and Sgt. Joseph Walas. He noted in his memo book that at 11:30PM there was one stop on § 87(2)(b) and at 11:35PM they had an arrest.

§ 87(2)(g) However, PO Murphy stated that Sgt. Walas stayed in the van and that he and PO Martinez got out of the van. PO Murphy could not remember who spoke to the driver. PO Murphy stated that the driver, § 87(2)(b) was a little combative when asked for his license. He wanted to know why he was stopped. A summons was issued to § 87(2)(b). A black male and a black female, § 87(2)(b) and § 87(2)(b) § 87(2)(b) came to the sidewalk from either inside the house or from the stoop. § 87(2)(b) § 87(2)(b) was very belligerent, screaming and cursing at them. PO Murphy was not specific about the language she used. § 87(2)(b) was asked several times (at least ten) to step back onto the curb and to step back from the officer but she just kept getting louder and louder.

After the officers returned to their van, the summons was issued to § 87(2)(b). They were going back to the van and were waiting for the driver to move his vehicle. As they were going back to the van something went on behind PO Murphy. When he turned around, PO Cane and PO Martinez had § 87(2)(b) § 87(2)(b) facedown on the ground and were attempting to handcuff him. PO Murphy went to § 87(2)(b) § 87(2)(b) who was going to get out of the vehicle and directed him to stay inside the vehicle. § 87(2)(b) § 87(2)(b) complied. When asked if he saw how § 87(2)(b) ended up on the ground, PO Murphy stated, "I don't know. I just heard the rustling of the garbage and then turned around and that's where they were, putting him on the ground trying to cuff him." PO Murphy stated that there was a plastic bag on the curb and it sounded like someone kicked it. § 87(2)(b) § 87(2)(b) was screaming, "Don't you motherfuckers have anything better to do than mess with us." PO Murphy had his back towards the other officers when § 87(2)(b) was being handcuffed. He did not observe any physical contact with § 87(2)(b). PO Murphy did not remember PO Martinez using the word "fuck" or saying, "Don't come near my fucking

van.” During the time that § 87(2)(b) was yelling she asked for PO Murphy’s name and badge. PO Murphy stated that he gave it to her almost as many times as he told her to get back onto the curb. PO Murphy could not remember her asking any of the other officers for their name and shield. According to PO Murphy, Sgt. Walas stayed in the van. The mother came out of the house eventually. PO Murphy stated that he did not use any profanity. § 87(2)(b) was brought to the stationhouse and issued a summons. He was summonsed because he pushed an officer. PO Murphy did not know which officer he pushed and did not see the individual push an officer.

Sprints

Three duplicate sprint numbers were generated for this incident; T14349, § 87(2)(b), and § 87(2)(b) (encl.12A-12G). Sprint T14349 reflects the fact that one male was stopped and arrested at 11:25PM. Sprint § 87(2)(b) was generated from an anonymous female caller who stated that she saw four officers assault a person at the location of § 87(2)(b) § 87(2)(b) between § 87(2)(b). The caller was not specific as to the nature of the assault. Sprint § 87(2)(b) was generated from § 87(2)(b) § 87(2)(b) call to 911 and reports that § 87(2)(b) § 87(2)(b) claimed that the police beat her brother; she requested IAB and refused medical attention.

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian Criminal History

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Complainant CCRB History

§ 87(2)(b) has not made prior complaints at the CCRB.

Officer CCRB History

PO Robert Martinez has had one prior substantiated allegation, for discourteous language, at the CCRB in regard to case number 200205713. The Civilian Complaint Review Board recommended charges for this substantiation and the NYPD penalized PO Martinez with Command Discipline. Neither PO James Murphy nor PO Terrence Cane has had a substantiated complaint at the CCRB.

Conclusions and Recommendations

Disputed and Undisputed Facts

On September 20, 2005 PO Robert Martinez issued a § 87(2)(b) ticket to § 87(2)(b) in front of § 87(2)(b) § 87(2)(b) in Brooklyn. § 87(2)(b) § 87(2)(b) was outside of this location and asked PO Martinez what the summons was for. § 87(2)(b), § 87(2)(g)

PO Murphy claimed that when § 87(2)(b) asked for his name, he provided it about as many times as he told her to get onto the sidewalk and stated that he had told her to get on the sidewalk ten times. § 87(2)(b) § 87(2)(b) claimed that she eventually obtained his information along with PO Cane’s when she went to the stationhouse later that night and that he ignored her when she asked for it on the scene. § 87(2)(b), § 87(2)(g)

According to both PO Martinez and § 87(2)(b) PO Martinez pushed § 87(2)(b) § 87(2)(b), § 87(2)(g)

Credibility

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) All of the officers claimed that § 87(2)(b) was “belligerent” and/or “irate” and all except Sgt. Walas claimed that she was heavily using profanity. § 87(2)(b) stated in her 911 call that all of the officers were involved in the force used against § 87(2)(b). She also stated that the officers were punching and stomping him, an allegation she did not mention again during her CCRB interview. § 87(2)(b) stated that the officers used physical force against § 87(2)(b) when he said, “Hey, what are you all doing?” § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) PO Cane said, “That she used every obscenity in the world.” PO Martinez stated that he, “Had never been cursed at so badly.” PO Martinez stated that § 87(2)(b) said, “We’re not going to move this fucking car. Fuck you, you fucking bastard.” PO Cane described her saying at that moment, “We’ll move when we’re ready.” § 87(2)(b), § 87(2)(g)

§ 87(2)(b) When questions about the allegations were asked, Sgt. Walas replied that he did not remember. In their narratives both PO Martinez and PO Cane claimed that § 87(2)(b) pushed PO Martinez and that PO Martinez began to arrest him at that time. PO Murphy and Sgt. Walas claimed that they did not see § 87(2)(b) push PO Martinez. PO Martinez claimed that he pushed § 87(2)(b) away from him and then they both fell to the ground because § 87(2)(b) fell over some trash. § 87(2)(b), § 87(2)(g)

Allegations Not Pleaded

§ 87(2)(b) claimed that all of the officers who were present during this incident were involved in using physical force. § 87(2)(g)

Allegation A: PO Robert Martinez spoke obscenely and rudely to § 87(2)(b) § 87(2)(b)

PO Robert Martinez flatly denied using any profanity during this incident. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) PO Martinez has previously been disciplined for discourteous language by the NYPD. PO Martinez and PO Cane denied that PO Martinez used any profanity while Sgt. Walas stated that he did not remember. § 87(2)(g)

Allegation B: PO Robert Martinez refused to provide his name to § 87(2)(b) § 87(2)(b)

Allegation C: PO James Murphy refused to provide his name to § 87(2)(b) § 87(2)(b)

Allegation D: PO Terrence Cane refused to provide his name to § 87(2)(b) § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) PO Martinez denied being asked for his name. § 87(2)(b), § 87(2)(g)

Allegation E: PO Terrence Cane spoke obscenely and rudely to § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation F: PO Robert Martinez threatened to arrest § 87(2)(b) § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation G: PO Robert Martinez used physical force against § 87(2)(b)

There is no dispute that PO Martinez used physical force against § 87(2)(b) § 87(2)(b), § 87(2)(g)

PO Martinez claimed that he did not have any physical contact with § 87(2)(b) § 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: